

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESale PRICE  
LITIGATION

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)  
) MDL No. 1456  
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) Civil Action No. 01-CV-12257-  
) PBS  
)

THIS DOCUMENT RELATES TO

)  
) Judge Patti B. Saris  
)

*State of Montana v. Abbott Labs Inc., et al.,*  
D. Mont. Cause No. CV-02-09-H-DWM

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**DEFENDANT NOVARTIS PHARMACEUTICALS  
CORPORATION’S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendant Novartis Pharmaceuticals Corporation (“NPC”), by and through its attorneys, respectfully requests that summary judgment be granted to NPC on all of Plaintiff State of Montana’s (“Plaintiff”) claims against NPC on the ground that Plaintiff’s claims fail against NPC as a matter of law. In support of this Motion, NPC submits a Memorandum in Support of NPC’s Motion for Summary Judgment; NPC’s Local Rule 56.1 Statement of Undisputed Facts; Affidavit of Samuel N. Lonergan, Esq., (Exhibits 2 and 3 of which will be filed under seal); Affidavit of Michael Conley; Affidavit of Thomas Held; and Affidavit of Bette Schultz.

WHEREFORE, NPC respectfully requests that the motion for summary judgment be GRANTED to NPC on all of Plaintiff’s claims.

Pursuant to L.R. 7.1, NPC believes that oral argument may assist the Court in resolving the issues presented in this motion and respectfully requests that oral argument be heard.

DATED: February 8, 2007

Respectfully submitted,

/s/ Karen F. Green

Karen F. Green, BBO # 209050  
WILMER CUTLER PICKERING HALE AND  
DORR LLP  
60 State Street  
Boston, Massachusetts 02109  
(617) 526-6000

Jane W. Parver (admitted *pro hac vice*)  
Saul P. Morgenstern (admitted *pro hac vice*)  
Samuel Lonergan (admitted *pro hac vice*)  
Charles Graybow (admitted *pro hac vice*)  
KAYE SCHOLER LLP  
425 Park Avenue  
New York, New York 10022  
(212) 836-8000

*Attorneys for Defendant*  
*Novartis Pharmaceuticals Corporation*

**LOCAL RULE 7.1(A)(2) CERTIFICATION**

I hereby certify that defense liaison counsel conferred with counsel for Plaintiff in a good faith effort to resolve the issues raised by this motion, and counsel for Plaintiff has advised that Plaintiff does not assent to this motion.

DATED: February 8, 2007

/s/ Brett Budzinski

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8th day of February, 2007, a true and accurate copy of the Memorandum in Support of Novartis Pharmaceuticals Corporation's Motion for Summary Judgment was served via the Lexis-Nexis Filing System:

DATED: February 8, 2007.

/s/ Brett Budzinski